Case 3:21-cv-03496-AMO Document 388 Filed 01/03/25 Page 1 of 17

UNITED STATES DISTRICT COURT 1 2 NORTHERN DISTRICT OF CALIFORNIA 3 SAN FRANCISCO DIVISION 4 5 SURGICAL INSTRUMENT SERVICE Case No. 3:21-cv-03496-AMO COMPANY, INC., 6 Plaintiff, v. 7 [PROPOSED] AMENDED ORDER ON JOINT ADMINISTRATIVE INTUITIVE SURGICAL, INC., 8 Defendant. MOTION TO CONSIDER WHETHER ANOTHER PARTY'S 9 MATERIAL SHOULD BE SEALED PURSUANT TO CIVIL LOCAL **RULE 79-5(f)** 10 11 The Honorable Araceli Martínez-Olguín 12 13 14 15 16 17 18 19 20 21 22 23

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Dkt. No. | Dkt. No. | Party with | Full or | Brief

Having considered the Joint Administrative Motion to Consider Whether Another

Granted/

2 3

1

Party's Material Should Be Sealed, IT IS HEREBY ORDERED that the following exhibits and deposition testimony shall be sealed at trial.

4

6 7	or Description	No. of Sealed Version	of unsealed version	of decl. in support of	burden to substantiate need to seal	partial sealing sought	statement of reason for sealing (with citation to	Denied (leave blank)
8				sealing			corresponding declaration in	
9							support of sealing)	
10								
11	TX0210	N/A	341-2	366	Alliance		510(k)	GRANTED.
12	(AHP000526 – AHP000537)				Healthcare Partners			
13								
14	TX0211	N/A	341-3	366	Alliance		510(k)	GRANTED.
15	(AHP000521 – AHP000523)				Healthcare Partners		. ,	
16	,							
17	TX0212	N/A	341-4	366	Alliance		510(k)	GRANTED.
18	(AHP002130 – AHP002140)				Healthcare Partners			
19	,							
20	TX0334	N/A	341-5	366	Alliance		510(k)	GRANTED.
21	(AHP000527 – AHP000537)	1771	3113	300	Healthcare Partners		310(k)	GIGHTIED.
22	1111 000231)				T drenors			
23	TX1302	N/A	341-6	366	Alliance		510(k)	GRANTED.
24	(AHP000369 – AHP000372)	14/74	371-0	300	Healthcare Partners		J10(K)	OKANIED.
25	1111 000372)				T di diois			
26	TX1303	N/A	341-7	366	Alliance		510(k)	GRANTED.
27	(AHP000853 – AHP000930)	IN/A	341-/	300	Healthcare Partners		310(K)	UKANIED.
28	Anroudesu)				rainers			
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1 2	Document title or Description	Dkt. No. of Sealed	Dkt. No. of unsealed	Dkt. No. of decl. in	Party with burden to substantiate	Full or partial sealing	Brief statement of reason for	Granted/ Denied (leave
3		Version	version	support of	need to seal	sought	sealing (with citation to	blank)
4				sealing			corresponding declaration in	
5							support of sealing)	
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7	TX1304	N/A	341-8	366	Alliance		510(k)	GRANTED.
8	(AHP002062 – AHP002067)				Healthcare Partners			
9								
10	TX1305 (AHP002623 –	N/A	341-9	366	Alliance Healthcare		510(k)	GRANTED.
11	AHP002624)				Partners			
12								
13	Deposition Transcript of	N/A	341-10	366	Alliance Healthcare	Partial (pages	510(k)	GRANTED.
14	Rick Ferreira, taken on				Partners	100:1		
15	11/10/2022					103:1 8,		
16						o, 150:1		
17						- 151:1		
18						8, 159:2		
19						1- 165:2		
20						5, 169:2		
21						2- 179:1		
22)		
23								
24	Deposition Transcript of	N/A	341-11		Asensus			DENIED as
25	Transcript of Todd Pope, taken on				Surgical			unsupported. See Gallo Decl. (ECF
26	4/30/2021							373-2) ¶ 4.
27								
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1	Document title	Dkt.	Dkt. No.	Dkt. No.	Party with	Full or	Brief	Granted/
1	or Description	No. of Sealed	of unsealed	of decl.	burden to substantiate	partial sealing	statement of reason for	Denied (leave
2		Version	version	support of	need to seal	sought	sealing (with citation to	blank)
3				sealing			corresponding declaration in	
4							support of sealing)	
5							scamg)	
6	TV1200 (CMD	NT/A	341-12	364	CMD		Danasiatas	GRANTED.
7	TX1309 (CMR- 00000001 –	N/A	341-12	304	CMR Surgical		Proprietary Business	GRANTED.
8	CMR-00000169)						Information	
9								
10	TX1310 (CMR- 00000229 –	N/A	341-13	364	CMR Surgical		Proprietary Business	GRANTED.
11	CMR-00000255)						Information	
12								
13	TX0012 (FRANCISCAN	N/A	341-14		Franciscan Health			DENIED as unsupported.
14	-00055639 – FRANCISCAN-							See Gallo Decl. (ECF
15	00055648)							373-2) ¶ 5.
16								
17	TX0188 (FRANCISCAN	N/A	341-15		Franciscan Health			DENIED as unsupported.
18	-00051195)							See Gallo Decl. (ECF
19								373-2) ¶ 5.
20								
21	TX0194 (FRANCISCAN	N/A	341-16		Franciscan Health			DENIED as unsupported.
22	-00050721 – FRANCISCAN-							See Gallo Decl. (ECF
23	00050759)							373-2)¶5.
24								
25	TX0195 (FRANCISCAN	N/A	341-17		Franciscan Health			DENIED as unsupported.
26	-00050821 – FRANCISCAN-							See Gallo Decl. (ECF
27	00050823)							373-2)¶5.
28								
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Case 3.21-67-03490-AM	DUCUITIETII 300	Filed 01/03/23	Paue 5 UI II

1	Document title or Description	Dkt. No. of Sealed	Dkt. No. of unsealed	Dkt. No. of decl. in	Party with burden to substantiate	Full or partial sealing	Brief statement of reason for	Granted/ Denied (leave
2		Version	version	support of	need to seal	sought	sealing (with citation to	blank)
3				sealing			corresponding declaration in	
4 5 5							support of sealing)	
6								
7	TX0204 (FRANCISCAN	N/A	341-18		Franciscan Health			DENIED as
8	-00050811 – FRANCISCAN-				Health			unsupported. See Gallo Decl. (ECF
9	00050814)							373-2) ¶ 5.
10								
11	TX0205 (FRANCISCAN	N/A	341-19		Franciscan Health			DENIED as unsupported.
12	-00050796 – FRANCISCAN-				11000101			See Gallo Decl. (ECF
13	00050810)							373-2)¶5.
14								
15	TX0206 (FRANCISCAN	N/A	341-20		Franciscan Health			DENIED as unsupported.
16	-00055468 – FRANCISCAN-							See Gallo Decl. (ECF
17	00055531)							373-2) ¶ 5.
18								
19	TX0376 (FRANCISCAN	N/A	341-21		Franciscan Health			DENIED as unsupported.
20	-00056312 – FRANCISCAN-							See Gallo Decl. (ECF
21	00056338)							373-2) ¶ 5.
22	TV1624 415	N/A	341-22		Eronoisson			DEMIED as
23	TX1634.415 (FRANCISCAN -00000423 –	IN/A	341-22		Franciscan Health			DENIED as unsupported. See Gallo
24	FRANCISCAN- 00000427)							Decl. (ECF 373-2) ¶ 5.
25	00000721)							313 2) 3.
26	Deposition	N/A	341-23		Franciscan			DENIED as
27	Transcript of John Francis,	11/11	311 23		Health			unsupported. See Gallo
28								
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Case 3.21-67-03490-AM	DUCUITIETII 300	Filed 01/03/23	Paue 0 01 1/

1	Document title or Description	Dkt. No. of	Dkt. No. of	Dkt. No. of decl.	Party with burden to	Full or partial	Brief statement of	Granted/ Denied
2		Sealed Version	unsealed version	in support of	substantiate need to seal	sealing sought	reason for sealing (with citation to	(leave blank)
3				sealing			corresponding declaration in	
5							support of sealing)	
6								
7	taken on							Decl. (ECF
8	10/14/2022							373-2) ¶ 5.
9								
10	Deposition Transcript of	N/A	341-24		Franciscan Health			DENIED as unsupported.
11	Dipen Maun, taken on 11/8/2022							See Gallo Decl. (ECF 373-2) ¶ 5.
12								
13	Deposition	N/A	341-25		Franciscan			DENIED as
14	Transcript of Paul Plomin,				Health			unsupported. See Gallo
15	taken on 11/8/2022							Decl. (ECF 373-2) ¶ 5.
16								
17	Deposition	N/A	341-26		Franciscan			DENIED as
18	Transcript of Judith				Health			unsupported. See Gallo
19	Schimmel, taken on 9/22/2022							Decl. (ECF 373-2) ¶ 5.
20								
21	Deposition Transcript of	N/A	341-27		Franciscan Health			DENIED as unsupported.
22	Judith Schimmel, taken				Health			See Gallo Decl. (ECF
23	on 11/16/2022							373-2) ¶ 5.
24								
25	Deposition Transcript of	N/A	341-28		Franciscan Health			DENIED as unsupported.
26	Michael Shepherd, taken				Troutui			See Gallo Decl. (ECF
27	on 11/4/2022							373-2) ¶ 5.
28								
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1	Document title or Description	Dkt. No. of Sealed	Dkt. No. of unsealed	Dkt. No. of decl. in	Party with burden to substantiate	Full or partial sealing	Brief statement of reason for	Granted/ Denied (leave
2		Version	version	support of	need to seal	sought	sealing (with	blank)
3				sealing			corresponding declaration in	
5							support of sealing)	
6								
7	Deposition	N/A	341-29		Franciscan			DENIED as
8	Transcript of Karen Waninger,				Health			unsupported. See Gallo
9	taken on 10/6/2022							Decl. (ECF 373-2) ¶ 5.
10								
	TX1684	N/A	341-30	362	Stryker		Due Diligence	GRANTED.
11 12	(STRREB00000 259)						Reports / Proprietary Business	
13							Information	
14	TX1685 (STRREB00000	N/A	341-31	362	Stryker		Due Diligence Reports /	GRANTED.
15	260 – STRREB000002						Proprietary Business	
16	73)						Information	
17								
18	TX0054 (VMC-	N/A	341-32		Valley			DENIED as
	00014375 – VMC-00014380)				Medical Center			unsupported. See Gallo
19								Decl. (ECF 373-2) ¶ 5.
20								
21	TX0056 (VMC-	N/A	341-33		Valley			DENIED as
22	00015993 – VMC-00016060)				Medical Center			unsupported. See Gallo
23								Decl. (ECF 373-2) ¶ 5.
24								
25	TX0106 (VMC-	N/A	341-34		Valley			DENIED as
26	00021270 – VMC-00021281)	11/11	311 37		Medical Center			unsupported. See Gallo
27	VIVIC-00021201)				Conto			See Gano
28								

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1 2	Document title or Description	Dkt. No. of Sealed	Dkt. No. of unsealed	Dkt. No. of decl. in	Party with burden to substantiate	Full or partial sealing	Brief statement of reason for	Granted/ Denied (leave
3		Version	version	support of	need to seal	sought	sealing (with citation to	blank)
4				sealing			corresponding declaration in	
5							support of sealing)	
6								
7								Decl. (ECF 373-2) ¶ 5.
8								,
9	TX0108 (VMC-	N/A	341-35		Valley			DENIED as
10	00021465 – VMC-00021494)				Medical Center			unsupported. See Gallo
11								Decl. (ECF 373-2) ¶ 5.
12								
13	TX0109 (VMC-	N/A	341-36		Valley			DENIED as
14	00020868 – VMC-00020879)				Medical Center			unsupported. See Gallo
15								Decl. (ECF 373-2) ¶ 5.
16								
17	TX0111 (VMC- 00025581 –	N/A	341-37		Valley Medical			DENIED as unsupported.
18	VMC-00025588)				Center			See Gallo Decl. (ECF
19								373-2) ¶ 5.
20								
21	TX0112 (VMC- 00020543 –	N/A	341-38		Valley Medical			DENIED as unsupported.
22	VMC-00020548)				Center			See Gallo Decl. (ECF
23								373-2) ¶ 5.
24								
25	TX0113 (VMC- 00020649 –	N/A	341-39		Valley Medical			DENIED as unsupported.
26	VMC-00020666)				Center			See Gallo Decl. (ECF
27								373-2) ¶ 5.
28								

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1	Document title or Description	Dkt. No. of	Dkt. No. of	Dkt. No. of decl.	Party with burden to	Full or partial	Brief statement of	Granted/ Denied
2	•	Sealed Version	unsealed version	in support	substantiate need to seal	sealing sought	reason for sealing (with	(leave blank)
3				of sealing		G	citation to corresponding	
4				G			declaration in support of	
5							sealing)	
6								
7	TX0115 (VMC- 00018344 –	N/A	341-40		Valley Medical			DENIED as unsupported.
8	VMC-00018376)				Center			See Gallo Decl. (ECF
9								373-2) ¶ 5.
10								
11	TX0116 (VMC- 00060616 –	N/A	341-41		Valley Medical			DENIED as unsupported.
12	VMC-00060622)				Center			See Gallo Decl. (ECF
13								373-2) ¶ 5.
14								
15	Deposition Transcript of	N/A	341-42		Valley Medical			DENIED as unsupported.
16	Greta Bernier, taken on				Center			See Gallo Decl. (ECF
17	11/7/2022							373-2) ¶ 5.
18	D 10	27/4	241 42		X7 11			DENHED
19	Deposition Transcript of	N/A	341-43		Valley Medical			DENIED as unsupported.
20	Michael Burke, taken on 9/27/2022				Center			See Gallo Decl. (ECF 373-2) ¶ 5.
21	912112022							373-2) 3.
22	Danosition	N/A	341-44		Volley			DENIED
23	Deposition Transcript of Elizabeth Nolan,	IN/A	341-44		Valley Medical Center			DENIED as unsupported. <i>See</i> Gallo
24	taken on 11/10/2022				Center			Decl. (ECF 373-2) ¶ 5.
25	11/10/2022							313-2) 3.
26								

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Document title or Description	Dkt. No. of Sealed Version	Dkt. No. of unsealed version	Dkt. No. of decl. in support of sealing	Party with burden to substantiate need to seal	Full or partial sealing sought	Brief statement of reason for sealing (with citation to corresponding declaration in support of sealing)	Granted/ Denied (leave blank)
Deposition Transcript of Richard Teal, taken on 11/18/2022	N/A	341-45		Valley Medical Center			DENIED as unsupported. See Gallo Decl. (ECF 373-2) ¶ 5.
Deposition Transcript of Todd Thomas, taken on 11/10/2022	N/A	341-46		Valley Medical Center			DENIED as unsupported See Gallo Decl. (ECF 373-2) ¶ 5.
Deposition Transcript of John Wagner, taken on 10/11/2022	N/A	341-47		Valley Medical Center			DENIED as unsupported See Gallo Decl. (ECF 373-2) ¶ 5.
TX0121 (Restore- 00094918 – Restore- 00094956)	N/A	341-48	367	Restore Robotics		Business Plans	GRANTED.
TX0155 (Restore- 00091199 – Restore- 00091206)	N/A	341-49	367	Restore Robotics		Research Processes	GRANTED
TX0209 (Restore- 00086907 –	N/A	341-50	367	Restore Robotics		510(k)	GRANTED

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1 2	Document title or Description	Dkt. No. of Sealed	Dkt. No. of unsealed	Dkt. No. of decl. in	Party with burden to substantiate	Full or partial sealing	Brief statement of reason for	Granted/ Denied (leave
3		Version	version	support of	need to seal	sought	sealing (with citation to	blank)
4				sealing			corresponding declaration in	
5							support of sealing)	
6								
7	Restore- 00087400)							
8								
9	TX0213	N/A	341-51;	367	Restore		510(k)	GRANTED.
10	(Restore- 00087401 –		341-52; 341-53		Robotics			
11	Restore- 00089715)							
12								
13	TX0214	N/A	341-54	367	Restore		510(k)	GRANTED.
14	(Restore- 00096294 – Restore-				Robotics			
15	0096295)							
16								
17	TX0215 (Restore-	N/A	341-55	367	Restore Robotics		510(k)	GRANTED.
18	00104982 – Restore-							
19	00104988)							
20								
21	TX0217 (Restore-	N/A	341-56	367	Restore Robotics		510(k)	GRANTED.
22	00112413 – Restore-							
23	00112164)							
24	TX0220	N/A	2/1 57	367	Pastora		510(k)	GRANTED.
25	(Restore- 00091435 –	N/A	341-57	30/	Restore Robotics		510(k)	GKANTED.
26	Restore- 00091441)							
27								
28								

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Document title or Description	Dkt. No. of Sealed Version	Dkt. No. of unsealed version	Dkt. No. of decl. in support of sealing	Party with burden to substantiate need to seal	Full or partial sealing sought	Brief statement of reason for sealing (with citation to corresponding declaration in support of sealing)	Granted/ Denied (leave blank)
TX0841 (Restore- 00086093 – Restore- 00086120)	N/A	341-58	367	Restore Robotics		510(k)	GRANTED.
TX0842 (Restore- 00089490 – Restore- 00089503)	N/A	341-59	367	Restore Robotics		510(k)	GRANTED.
TX0843 (Restore- 00112674 – Restore- 00112705)	N/A	341-60	367	Restore Robotics		510(k)	GRANTED.
TX1457 (Restore- 00001538 – Restore- 00001578)	N/A	341-61	367	Restore Robotics		Production Methods	GRANTED.
TX1462 (Restore- 00007938 – Restore- 00007980)	N/A	341-62	367	Restore Robotics		Production Methods	GRANTED.
TX1463 (Restore- 00009029 –	N/A	341-63	367	Restore Robotics		Business Plans	GRANTED.

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1 2	Document title or Description	Dkt. No. of Sealed	Dkt. No. of unsealed	Dkt. No. of decl. in	Party with burden to substantiate	Full or partial sealing	Brief statement of reason for	Granted/ Denied (leave
3		Version	version	support of	need to seal	sought	sealing (with citation to	blank)
4				sealing			corresponding declaration in support of	
5							support of sealing)	
6								
7	Restore- 00009032)							
8								
9	TX1471	N/A	341-64	367	Restore		Production	GRANTED.
10	(Restore- 00060361 –				Robotics		Methods	
11	Restore- 00060386)							
12								
13	TX1474 (Restore-	N/A	341-65	367	Restore Robotics		Business Plans	GRANTED.
14	00064505; Restore-				Robotics			
15	00064530)							
16								
17	TX1477 (Restore-	N/A	341-66	367	Restore Robotics		Production Methods	GRANTED.
18	00086959 – Restore-							
19	00087133)							
20								
21	TX1478 (Restore-	N/A	341-67	367	Restore Robotics		510(k)	GRANTED.
22	00090136 – Restore-							
23	00090171)							
24	TX1479	N/A	341-68	367	Restore		510(k)	GRANTED.
25	(Restore- 00091502 –	IN/A	341-08	30/	Restore Robotics		510(k)	GRANIED.
26	Restore- 00091531)							
27 28								
20								

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Document title or Description	Dkt. No. of Sealed Version	Dkt. No. of unsealed version	Dkt. No. of decl. in support of sealing	Party with burden to substantiate need to seal	Full or partial sealing sought	Brief statement of reason for sealing (with citation to corresponding declaration in support of sealing)	Granted/ Denied (leave blank)
TX1483 (Restore- 00095136 – Restore- 00095139)	N/A	341-69	367	Restore Robotics		Research Processes	GRANTEI
TX1485 (Restore- 00095403 – Restore- 00095480)	N/A	341-70	367	Restore Robotics		510(k)	GRANTE
TX1486 (Restore- 00095711 – Restore- 00095978)	N/A	341-71	367	Restore Robotics		510(k)	GRANTE
TX1487 (Restore- 00096308 – Restore- 00096313)	N/A	341-72	367	Restore Robotics		510(k)	GRANTE
TX1488 (Restore- 00106446 – Restore- 00106617)	N/A	341-73	367	Restore Robotics		510(k)	GRANTE
TX1489 (Restore- 00109056 –	N/A	341-74	367	Restore Robotics		510(k)	GRANTEI

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	Document title	Dkt.	Dkt. No.	Dkt. No.	Party with	Full or	Brief	Granted/
1	or Description	No. of Sealed	of unsealed	of decl.	burden to substantiate	partial sealing	statement of reason for	Denied (leave
2		Version	version	support of	need to seal	sought	sealing (with citation to	blank)
3				sealing			corresponding declaration in	
4							support of sealing)	
5							scaning)	
6	Restore-							
7	00109065)							
8								
9	TX1490	N/A	341-75	367	Restore		510(k)	GRANTED.
10	(Restore- 001132582 – Restore-				Robotics			
11	00132592)							
12								
13	TX1494	N/A	341-76	367	Restore		Business Plans	GRANTED.
14	(Restore- 00094567 –				Robotics			
15	Restore- 00094586)							
16								
17	TX1635.014	N/A	341-77	367	Restore		Business	GRANTED.
18	(Restore- 00025577 –				Robotics		Reputation	
19	Restore- 00025584)							
20								
21	Deposition	N/A	341-78	367	Restore	Partial	Research	GRANTED.
22	Transcript of Kevin May,				Robotics	(pages 48:10	Processes	
23	taken on 11/3/2022					-52:3, 53:14		
24						-55:2,		
25						88:7- 89:25,		
26						94:7- 97:3)		
27								
28								

1 2 3 4 5 6	Document title or Description	Dkt. No. of Sealed Version	Dkt. No. of unsealed version	Dkt. No. of decl. in support of sealing	Party with burden to substantiate need to seal	Full or partial sealing sought	Brief statement of reason for sealing (with citation to corresponding declaration in support of sealing)	Granted/ Denied (leave blank)
7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26	Deposition Transcript of Clifton Parker, taken on 10/25/2022	N/A	341-79	367	Restore Robotics	Partial (pages 55:13 -56:7, 74:13, 92:15, 93:6, 94:6, 94:9, 95:19, 95:24, 96:10, 96:20, 96:21, 100:5, 100:1 9. 100:2 0, 101:2 - 103:8, 110:1 7, 134:1 2, 136:1 5, 139:6, 141:7, 144:6 - 144:2 2, 171:1	Vendor Relationships and Internal Finances	GRANTED.
27						5, 171:7,		

1 2 3 4 5 6	Document title or Description	Dkt. No. of Sealed Version	Dkt. No. of unsealed version	Dkt. No. of decl. in support of sealing	Party with burden to substantiate need to seal	Full or partial sealing sought	Brief statement of reason for sealing (with citation to corresponding declaration in support of sealing)	Granted/ Denied (leave blank)
7						171:2 0)		
8								
9	TX0764	N/A		361	Rebotix		Proprietary	GRANTED.
10	(REBOTIX0191 32 –				Repair		Business Information	
11	REBOTIX01920 9)							
12								
13	TX1413	N/A		361	Rebotix		Proprietary	GRANTED.
14	(REBOTIX0207 86 –				Repair		Business Information	
15	REBOTIX02078 7)							
16								
17	TX1446	N/A		361	Rebotix		Proprietary	GRANTED.
18	(REBOTIX1691 68 –				Repair		Business Information	
19	REBOTIX16935 9)							
20								
21								

Due to technological constraints, materials sealed in accordance with this list must be published to witnesses, jurors, and the Court in paper copy at trial.

By:

IT IS SO ORDERED.

Dated: January 3, 2025

ARACELI MARTÍNEZ-OLGUÍN United States District Judge

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